IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 190 OF 2005

Dilip Kumar and another. ... Applicants

versus

State of Goa and another. ... Respondents

Mr. Manish Bohra, Advocate for the Applicants.

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM : N. A. BRITTO, J.

DATE : 13TH OCTOBER, 2005.

P.C.:-

Heard Mr. Manish Bohra, the learned Counsel appearing on behalf of the applicants who are accused nos.4 and 6 in Criminal Case No.15/1997 pending before the learned J.M.F.C., Mapusa, in which process has been issued against them along with other 12 accused. The grievance of the applicants/accused nos.4 and 6 is that no process could be issued against them because there were insufficient averments in the complaint filed by respondent no.2/complainant under Section 141 of the Negotiable Instruments Act, 1881.

Mr. Manish Bohra, the learned Counsel has submitted that the applicants/A-4 and A-6 have invoked the extraordinary jurisdiction of this

Court under Section 482 of the Code of Criminal Procedure, 1973(Code, for short) in the light of what has been stated by the Supreme Court in the case of **Adalat Prasad** v. **Rooplal Jindal and others**(2004(4) Mh.L.J. 274). In case process against the applicants has been wrongly issued is a matter which can be examined in revisional jurisdiction which has been concurrently conferred on the Court of Sessions as well as on this Court. The extraordinary jurisdiction under Section 482 of the Code need not be exercised by this Court in each and every case and it must be said that there is nothing exceptional in the case of the applicant/A-4 and A-6 herein. The grievance of the applicants could be reddressed in revisional jurisdiction as well, in the light of what has been stated by this Court in the case of Dr. M. N. Bhave v. M/s Travel Force(Criminal Misc.Application No.52 of 2005 decided on 6-4-2005). The present petition be returned to the applicants, to be presented before the Court of Sessions, Panaji, to be treated as a revision application filed against the Order issuing process against them by the learned J.M.F.C. The applicants/A-4 and A-6 are at liberty to present the said petition to the Court of Sessions, Panaji and in case presented within a period of four weeks after the same is returned to the applicants, the learned Sessions Judge, Panaji, shall register the same as a revision petition against the Order dated 4-11-2004 and decide the same in accordance with law.

With the above observation, Criminal Miscellaneous Application No.190 of 2005 is disposed of.

N**. A. BRITTO, J.**

RD.